

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

JOHN WILLIAM LONG,

Petitioner,

: Case No. 1:23-cv-714

- vs -

District Judge Matthew W. McFarland  
Magistrate Judge Michael R. Merz

WARDEN, Pickaway Correctional  
Institution,

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Respondent.

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**DECISION AND ORDER**

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This habeas corpus case, filed *pro se* by Petitioner John William Long to obtain relief from his conviction for murder in the Common Pleas Court of Hamilton County, Ohio, is before the Court on Petitioner's Motion to Expand the Record (ECF No. 33) and Amended Request for Leave to Conduct Discovery (ECF No. 34). At the Court's request, Respondent has filed a clarification of what it believes Long was seeking in his original Request to Conduct Discovery (Response in Opposition, ECF No. 35).

**Motion to Expand**

In his Motion to Expand the Record, Long seeks to add to the record the "Master Index of the transcript that indexed the state and Long's trial exhibits." That document is attached to the

Motion to Expand (ECF No. 33) at PageID 3167-70). Respondent has no objection (ECF No. 35, PageID 3193). That branch of the Motion to Expand is granted.

To the extent, however, that Petitioner's Motion seeks to expand the record by obtaining the trial exhibits listed in the Master Index, the Court find that they are not necessary for decision of the case. In particular the Magistrate Judge notes these exhibits are in the custody of Tom Boeing, Exhibit Clerk of the Hamilton County Common Pleas Court. To disrupt that custody to have the exhibits delivered to the undersigned would interrupt the chain of custody and the Magistrate Judge has no secure facility to maintain them since the facility built for that purpose was designated by the Court for other purposes several years ago. The request to expand the habeas corpus record with the original trial exhibits is denied.

#### **Amended Request for Discovery**

Long's Amended Request for Discovery seeks four items.

One of them is a response to requests for admission drafted to be posed to Joan Burke of the Hamilton County Coroner's Office. The Court has already rejected this request because posing these questions to Ms. Burke in the fact of Petitioner's accusation that she is guilty of felonies would violate her privilege against self-incrimination under the Fifth Amendment (Order, ECF No. 31, PageID 3161).

Long has also requested "any and all LAB NOTES pertaining to the Hamilton County Coroner's Crime Laboratory, case file #CC0J-02671, specifically any LAB NOTES pertaining to D/#03015672, D/#03-15672, (items #4-5,# 17 per the Chain of Custody Report)" (Amended Request, ECF No. 34, PageID 3177). Respondent opposes ordering production of these lab notes

because they were not in the record considered by the Ohio court of Appeals and therefore are excluded by *Cullen v. Pinholster*, 563 U.S. 170 (2011). That objection is well taken and is sustained.

For the same reason, Long's requests for information about whether his DNA was ever submitted to CODIS is denied: any such information was not before the Court of Appeals.

February 21, 2025.

s/ *Michael R. Merz*  
United States Magistrate Judge